

EXHIBIT 10

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

4 MARVEL WORLDWIDE, INC.,)
5 MARVEL CHARACTERS, INC.,)
and MVL RIGHTS, LLC,)
)
6 Plaintiffs,)
)
7 vs.) Case No. 10-141-CMKF
)
8 LISA R. KIRBY, BARBARA J.)
KIRBY, NEAL L. KIRBY and)
9 SUSAN N. KIRBY,)
)
10 Defendants.)
)

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER
VOLUME II
DEPOSITION OF STAN LEE
LOS ANGELES, CALIFORNIA
WEDNESDAY, DECEMBER 8, 2010

REPORTED BY:

24 Alejandria E. Kate
CSR NO. 11897, HI 448, RPR, CLR
25 JOB NO.: 35197

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4

5 DECEMBER 8, 2010

6 9:11 A.M.

7
89 Deposition of STAN LEE, held at the offices
10 of VENABLE LLP, 2049 Century Park East, Suite
11 2100, Los Angeles, California, pursuant to
12 agreement before Alejandria E. Kate, a
13 Registered Professional Reporter and
14 Certified Shorthand Reporter of the State of
15 California.16
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1 A P P E A R A N C E S:

3 ATTORNEY FOR THE PLAINTIFFS:

4 WEIL, GOTSHAL & MANGES
5 BY: JAMES W. QUINN, ESQ.
RANDI W. SINGER, ESQ.6 767 Fifth Avenue
New York, New York 10153
7 -AND-
8 HAYNES AND BOONE
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10 New York, New York 10020

12 ATTORNEY FOR THE DEFENDANTS:

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18 FOR THE WITNESS:

19 GANFER & SHORE
20 BY: ARTHUR LIEBERMAN, ESQ.
(APPEARANCE VIA VIDEO CONFERENCE)
21 360 Lexington Avenue
14th Floor
22 New York, NY 10017

23 ALSO PRESENT:

24 ELI BARD, Marvel Entertainment
25

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1 these characters with you?

2 A. I gave Jack as much credit as you could give
3 any human being. Now, again, I refer to Jack and Ditko
4 and all the guys I work with as co-creators now. And
5 the reason I do, Ditko, I was discussing it with him
6 once. And he said, "You know, you say you created
7 Spider-Man. Okay. It was your idea. I admit that.
8 But all you had was an idea. Until I drew it, there
9 was no Spider-Man."

10 That made a little sense to me. So I figured,
11 okay, I'm going to call you my co-creator, and I'm
12 going to call Jack and all the guys I work with. But
13 that was to make them feel good.

14 And maybe in a sense there was some validity,
15 but when you get to who came up with the idea, it was
16 me who said, "I want do a strip called Spider-Man," and
17 I hired Jack, and I didn't like it, and then I hired
18 Ditko.

19 And I said, "I want a villain named Galactus,"
20 and I told Jack. He loved the idea. He drew a
21 beautiful Galactus.

22 I said, "I want to do a thunder god," because
23 the Greek Gods and the Roman Gods had all been done. I
24 said, "Jack, I think you know a lot about the Norse
25 gods. Let's do Thor."

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1 And he said, "Great." And he did it.

2 So in that sense, I was a co-creator with
3 everybody. But the original concept, the original
4 ideas, came from me. And I would give them to an
5 artist, and I would say, "Here, you work on it." Or I
6 might give it to a writer and say, "This is the idea,
7 now you write it."

8 So, again, I don't know what "creator" means
9 or "co-creator." It depends how you define it.

10 Q. So is it your testimony that you came up with
11 the ideas, and they merely executed your ideas? Is
12 that your testimony?

13 A. For the main characters. While they were
14 drawing the scripts. They might come up with a lot of
15 other characters in line of drawing the scripts. Sure.
16 Just like Jack came up with The Surfer. I didn't tell
17 him to do The Surfer.

18 Q. So everything about those characters, main
19 characters, were your ideas?

20 A. Yes. Every one of those particular --

21 Q. They just drew it up for you?

22 A. Pardon me?

23 Q. It was all your idea; they merely just drew it
24 up for you?

25 MR. QUINN: Object to the form.

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1 You can answer.

2 THE WITNESS: I know it sounds -- it's hard to
3 believe, but, yes, they were all my ideas.

4 BY MR. TOBEROFF:

5 Q. I'm just trying to get at what you believe.

6 A. Well, that's what I believe, and that's the
7 truth. I came up with Spider-Man, the X-Men,
8 Daredevil, Dr. Strange, Iron Man, The Avengers. Those
9 particular -- and Sergeant Fury. They were my ideas,
10 and I gave them to artists to do, and I told them how I
11 wanted them done.

12 Jack Kirby was the best artist we have. And
13 whenever he was available, I would give him the script.

14 Q. And anything in these -- it's now 2010, but
15 anything in these interviews that were given in the
16 '60s or the '70s that contradict that was merely for
17 publicity, to make these people feel good; is that
18 correct?

19 MR. QUINN: Object to form.

20 You can answer.

21 THE WITNESS: Yes. And they didn't contradict
22 it that much. The spirit was there. It's just I tried
23 to make the guys feel good and look better, just the
24 way I did with the damn bullpen.

25 ///

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1 EXAMINATION

2 BY MR. QUINN:

3 Q. You recall that Mr. Toberoff asked you some
4 questions in connection with Spider-Man, and there was
5 some testimony that you gave regarding the fact that
6 you -- the original pages that Kirby had drawn --
7 Mr. Kirby had drawn with regard to Spider-Man, that you
8 had rejected them?

9 A. Right.

10 Q. And you decided to use Ditko, Steve Ditko,
11 instead?

12 A. Right.

13 Q. Did Mr. Kirby get paid for those rejected
14 pages?

15 A. Sure.

16 Q. And did you have a practice at that time with
17 regard to paying artists even when the pages were
18 rejected by you or required large changes?

19 A. Any artists that drew anything that I had
20 asked him or her to draw at my behest, I paid them for
21 it. If it wasn't good, we wouldn't use it. But I
22 asked them to draw it, so I did pay them.

23 Q. I'm going to jump around a little bit.

24 A. You have some filing system.

25 Q. I do.

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1 Q. So that's not a reference to the creation of
2 the characters?

3 MR. TOBEROFF: Leading.

4 THE WITNESS: No.

5 BY MR. QUINN:

6 Q. And looking at Lee Number 34, "Son of
7 Origins," that you wrote, Mr. Toberoff asked you some
8 questions about something you wrote on Page 14, but he
9 left out this part, where you wrote, speaking of, I
10 believe, the X-Men, "No sooner did I discuss the basic
11 premise with Jack, than we were off and running."

12 Is that consistent with your recollection that
13 before Jack did any drawing, you gave him the basic
14 premise?

15 MR. TOBEROFF: Leading.

16 THE WITNESS: Yes.

17 BY MR. QUINN:

18 Q. Did Mr. Kirby ever begin work on a book
19 published by Marvel before you had assigned him that
20 work?

21 A. No.

22 MR. TOBEROFF: Leading.

23 THE WITNESS: No.

24 MR. TOBEROFF: Vague.

25 THE WITNESS: At least mine are one-word

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1 answers now.

2 BY MR. QUINN:

3 Q. By the way, I think you -- there was some
4 questioning about a man by the name of Sal Brodsky.

5 Do you remember Mr. Brodsky?

6 A. Yes.

7 (Reporter clarification.)

8 MR. QUINN: Brodsky, B-R-O-D-S-K-Y. Sal.

9 BY MR. QUINN:

10 Q. Did Sal Brodsky decide either whether or how
11 much people were going to get paid -- people being
12 artists were going to get paid?

13 A. No.

14 Q. Whose job was it to decide whether they would
15 be paid and how much?

16 A. Mine. And, of course, Martin Goodman's,
17 whenever he bothered.

18 Q. Did Mr. Kirby bring you sketches of The
19 Fantastic Four before you and he had talked about doing
20 The Fantastic Four?

21 A. No.

22 Q. And was part of your job at Marvel, when you
23 were editor in chief, to set deadlines for the artists?

24 A. Always.

25 Q. How did that work?

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1 A. Oh, I received a schedule from somebody in the
2 company whose job that was, who worked with the
3 printer, when the printer would need each book.

4 Then it was up to me to figure out who should
5 write it, who should draw it and give them enough time
6 so that I would get the completed book in time to send
7 it to the printer.

8 So, for example, if I had a book that was due
9 quickly, I would give it to Jack, who was very fast. I
10 wouldn't give it to another artist who was slower. And
11 it was always a matter of production and deadlines.

12 Q. I'm not going to go over testimony you've
13 given in the prior deposition, but I do have one
14 question.

15 To your knowledge, was anything in The
16 Fantastic Four based on a previous work by Kirby called
17 "Challenges of the Unknown"?

18 A. No. I had never -- to this day I've never
19 read "Challenges of the Unknown," and I really know
20 nothing about it, except that there is or was a book of
21 that title.

22 Q. And to your knowledge, was the idea for
23 Spider-Man something that Kirby brought to you based on
24 his previous work on something called "The Fly"?

25 A. No.

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1 Q. Now, when you -- when you were serving as an
2 editor at Marvel, in the period 1958 to 1963, you were
3 paid a salary as an editor?

4 A. Yes.

5 Q. And how were you paid for your work as a
6 writer on the comics?

7 A. I was paid on a freelance basis, like any
8 freelance writer.

9 Q. And does that mean you were paid by the page?

10 A. Yes.

11 Q. And was it your belief that because Marvel had
12 bought that work from you, that they owned all right,
13 title and interest in the work?

14 A. Yes, I did believe that.

15 MR. TOBEROFF: I'm done.

16 MR. QUINN: Okay. I have nothing further.

17 MR. LIEBERMAN: You may leave, Mr. Lee.

18 THE COURT REPORTER: No stipulation, then?

19 It's Code?

20 MR. TOBEROFF: In California, we do a
21 stipulation.

22 MR. LIEBERMAN: Mr. Lee, leave. We're
23 finished.

24 MR. FLEISHCHER: Why don't we go off the
25 record, Marc, and tell us what stipulation you want to

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1 C E R T I F I C A T E

2

3 STATE OF CALIFORNIA)

) ss.

4 COUNTY OF LOS ANGELES)

5

6 I, ALEJANDRIA E. KATE, a Registered
7 Professional Reporter and Notary Public
8 within and for the State of California,
9 do hereby certify:

10 That the foregoing record of
11 proceedings is a full and correct
12 transcript of the stenographic notes taken
13 by me therein.

14 In witness whereof, I have hereunto
15 set my hand this 20th day of December,
16 2010.

17
18 
19
20

21 ALEJANDRIA E. KATE, CSR 11897
22
23
24
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13 EXHIBITS PREVIOUSLY MARKED AND ATTACHED HERETO:

14 Exhibit 1

15 Exhibit 2

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